

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11 FARIBA SADEGHI-LALABADI,

CASE NO. 11CV2899-LAB (POR)

12 vs. Plaintiff,
13

**ORDER GRANTING RENEWED
MOTION TO PROCEED *IN
FORMA PAUPERIS*; AND**

14 SOCIAL SECURITY DISABILITY
15 INSURANCE,

**ORDER DISMISSING
COMPLAINT**

16 Defendant.

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18 Plaintiff Fariba Sadeghi-Lalabadi filed this appeal from denial of social security
19 benefits, along with a motion to proceed *in forma pauperis* ("IFP"). Because the IFP motion
20 was incomplete, the Court denied it on December 16, 2011 without prejudice. Sadeghi-
21 Lalabadi has now filed a more complete IFP motion. Even though it is still not quite
22 complete, it is clear Sadeghi-Lalabadi lacks the resources to pay the filing fee, and the
23 motion is therefore **GRANTED**.

24 Sadeghi-Lalabadi earlier filed a motion for appointment of counsel, which was denied
25 as moot. The motion was also lacking in supporting information, and Sadeghi-Lalabadi did
26 not renew it when filing the amended complaint.

27 The Court is required to screen the complaint and to dismiss it to the extent it is
28 frivolous or malicious, fails to state a claim, or seeks monetary relief from an immune

1 defendant. See § 1915(e)(2)(B); *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000). The
 2 Court construes the pleadings of a *pro se* plaintiff, such as Sadeghi-Lalabadi, liberally, see
 3 *Eldridge v. Block*, 832 F.2d 1132, 1137 (9th Cir. 1987), but even a liberal construction does
 4 not supply elements Sadeghi-Lalabadi has not pleaded. See *Ivey v. Board of Regents*, 673
 5 F.2d 266, 268 (9th Cir. 1982).

6 The Court screened and dismissed the original complaint. The body of that complaint
 7 consisted of two sentences. In its entirety, it read: “Disability insurance, they said I am not
 8 disable[d] because I am working. It is true that I am working but I have depression and
 9 working is hard for me.” Although it was clear Sadeghi-Lalabadi thought the Commissioner
 10 of Social Security’s determination of non-disability was wrong, it was unclear why. The
 11 Court therefore dismissed it without prejudice, and with leave to amend.

12 The screening order pointed out to Sadeghi-Lalabadi what was missing from the
 13 complaint. Specifically, the Court noted, a complaint must contain “a short and plain
 14 statement of the claim showing that the pleader is entitled to relief,” Fed. R. Civ. P. 8(a)(2),
 15 and this was missing from the original complaint. That order cautioned Sadeghi-Lalabadi
 16 that the amended complaint had to meet the requirements of Fed. R. Civ. P. 8, and that if
 17 it didn’t, the entire action would be dismissed and Sadeghi-Lalabadi would have no further
 18 opportunity to amend.

19 The screening order noted that the fact that a claimant is working and receiving pay
 20 suggests she is not disabled. See *Stout v. Comm’r, Social Sec. Admin.*, 454 F.3d 1050,
 21 1052 (9th Cir. 2006) (citing 20 C.F.R. §§ 404.1520, 416.920) (“Is the claimant presently
 22 engaged in substantial gainful activity? If so, the claimant is not disabled.”) See also 20
 23 C.F.R. § 404.1574 (explaining how claimants are evaluated to determine if they are engaged
 24 in “substantial gainful activity”). The order, however, suggested that Sadeghi-Lalabadi might
 25 still have a viable claim, despite being nominally employed, if her earnings were too small
 26 for the work to be considered “substantial gainful activity,” or if depression were preventing
 27 Sadeghi-Lalabadi from working long enough or performing enough job functions to be
 28 // /

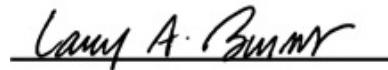
1 considered employed. See 20 C.F.R. § 404.1574(c) (discussing unsuccessful work
2 attempts).

3 On January 17, 2012, Sadeghi-Lalabadi filed an amended complaint. Rather than
4 correcting the deficiencies identified in the screening order, Sadeghi-Lalabadi included even
5 less information. The body of the amended complaint, in its entirety, says: "I have disability.
6 I have depression." For reasons set forth in the Court's order of December 16, this is
7 inadequate and fails to state a claim or comply with Fed. R. Civ. P. 8.

8 The amended complaint is therefore **DISMISSED WITHOUT LEAVE TO AMEND.**

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10 **IT IS SO ORDERED.**

11 DATED: January 23, 2012

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13 HONORABLE LARRY ALAN BURNS
United States District Judge
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